

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

KIMBALL PROPERTIES LIMITED)	
PARTNERSHIP, AND HEWLETT-PACKARD)	CASE NO. IPC-E-00-12
COMPANY,)	
)	
COMPLAINANTS)	
)	
vs.)	
)	
IDAHO POWER COMPANY, AN IDAHO)	ORDER NO. 29529
CORPORATION)	
)	
RESPONDENT.)	
)	

On August 10, 2000, Kimball Properties Limited Partnership (Kimball) and Hewlett-Packard Company (Hewlett-Packard; HP), collectively HP/Kimball, filed a Complaint for reparations against Idaho Power Company (Idaho Power; Company). HP/Kimball is seeking to recover \$490,824 (with interest) paid to Idaho Power as a condition of service and as a contribution in aid of construction (CIAC). Idaho Power contends that HP/Kimball requested 4 MW of electric power, that the Company did not have available capacity to serve the load, that construction of a substation was required and that a CIAC was required under the Company's line extension policy. The Commission in this Order determines that Idaho Power's CIAC policy is just and reasonable and that HP/Kimball is not entitled to a refund.

Pursuant to Commission Notice, a technical hearing in this matter was held in Boise on March 4, 2004. The following parties appeared by and through their respective counsel of record:

Idaho Power Company	Monica Moen, Esq. Barton Kline, Esq.
Kimball Properties Limited Partnership Hewlett-Packard Company	Peter J. Richardson, Esq.
Commission Staff	Scott Woodbury, Esq.

Background

The Commission has reviewed the filings of record and transcript of proceedings and finds the facts in this case to be straightforward. In June 1999, HP/Kimball requested Idaho Power to provide 4 MW of electric power to serve the load requirements of a Hewlett-Packard "call center" to be built and located within the Kimball Business Park at 303 North Kimball, an area in Boise just west of the Boise Towne Square shopping center. Because the service request was for more than 1 megawatt, it was assumed by HP and Idaho Power that HP would be a Schedule 19 Large Power Service customer. Tr. p. 59. Idaho Power determined that it did not have sufficient capacity in the area to serve the 4 MW load request and that additional facilities were required. Tr. p. 191.

The 4 MW requested by HP/Kimball was both a large load and a high load density request. Tr. p. 188. Although there was available capacity from area feeders, the Company found there was not enough to accommodate the entire amount of the HP/Kimball request. It was also determined by the Company to be impractical to reconfigure the service areas to combine available capacity into a single service location. To do so would have led to overlapping and non-contiguous service by different feeders that would likely have created undesirable operational, reliability and safety consequences for the Company. Tr. p. 192. There were also indications that Hewlett Packard's requirements might increase beyond the 4 MW request. Tr. p. 194. The Company decided that construction of a new 20 MW substation, known as the Bethel Court Substation, near the corner of Maple Grove and Franklin Street was required to serve the HP/Kimball load. Although construction of the 20 MW substation was a higher total cost option, the customer's prorata share was less than the cost of other options. Tr. pp. 61, 193. A 20 MW substation would also provide flexibility in meeting the future demands of HP. Tr. pp. 193, 194.

Idaho Power informed HP/Kimball that before it would proceed with the new Bethel Court Substation, a contribution in aid of construction in the amount of \$490,824 would have to be paid. Reference Exhibit No. 5. The contribution amount was Hewlett-Packard's prorata 4 MW share of the new 20 MW substation. Tr. p. 70. On October 29, 1993, the contribution amount was paid by Hewlett-Packard under protest, HP/Kimball reserving the right to dispute the assessment and to receive any refund arriving from a settlement thereof.

It was not until after the Bethel Court Substation was constructed that it became apparent that the Hewlett-Packard call center would not be a Schedule 19 customer. Tr. pp. 132, 133. Qualification and service under Schedule 19 rates requires that a customer register a metered demand of 1,000 kW or more for at least three billing periods. Exhibit 104. The 4 MW load never materialized. The call center was constructed in four phases and was comprised of three meters and four buildings. As reflected in an Idaho Power Record of Decision dated May 27, 1999, Hewlett-Packard anticipated that each of the four buildings would have a load requirement of 1 MW or larger. Exhibit 101, Tr. p. 198. As it turns out, the combined load of the call center complex is not 4 MW, it is only 1.5 MW. Tr. p. 135. None of the individual buildings or meter points have ever qualified for service under Schedule 19. The buildings are all served under Large General Service Schedule 9.

Complaint

HP/Kimball argues that the Kimball Business Park area is a rapidly growing business and commercial district and that Idaho Power would have had to construct a new substation in that vicinity to meet generic load growth regardless of the construction of the Kimball Business Park. HP/Kimball alleges that no other customers have been required or asked to pay a portion of the Bethel Court Substation. HP/Kimball contends that it has suffered discriminatory treatment at the hands of Idaho Power.

Hewlett-Packard does not dispute the necessity of constructing a new substation and concedes that Idaho Power is free to design its electric system as it sees fit. Tr. pp. 60, 61. Nor, it seems, does HP dispute that construction of a new substation was the least cost alternative to Hewlett-Packard. Tr. p. 61. HP does contend, however, that the need for the Bethel Court Substation was the result of poor planning decisions that left Idaho Power without adequate distribution corridors into the heart of a high-density load area. Tr. pp. 61, 63, 64, 66, 67. Located just south of Franklin Road adjacent to the Union Pacific Railroad tracks, the Bethel Court Substation lies almost exactly in the center of a very densely developed part of the Boise/Meridian urban area, an area bounded by the Ustick, Wye, Cloverdale and Victory Substations.

Hewlett-Packard contends that Idaho Power's CIAC policy regarding contributions from Schedule 19 customers for construction of new substations is arbitrary and irrational. Additionally, HP believes that the Company does not apply its policy on a consistent basis and

that the policy is thereby capricious and discriminatory. HP believes that it has been unfairly singled out. Tr. p. 58.

Idaho Power's policy of requiring contribution from Schedule 19 customers, HP/Kimball contends, is arbitrary and irrational because it requires contribution only of new load that comes on line near the time of construction. Tr. p. 71. HP contends that Idaho Power's policy regarding required contributions for substation and transmission upgrades is arbitrary because two identical industrial customers will be treated very differently, depending solely on the timing of each request for service. It is further irrational, it states, because the decision to assess only the first customer and not every subsequent customer has no relationship to cost causation. Tr. p. 85. If HP had constructed its call center at a location where there was sufficient capacity to serve its load, then under Idaho Power's system of cost apportionment, HP would not have been assessed any charge for a substation or transmission upgrades. Tr. pp. 71, 72. Also, if a new industrial customer were to now locate in the Kimball Business Park, then that new customer would not be charged anything for the use of the Bethel Court Substation. Tr. p. 72. The contribution required of HP/Kimball, the Complainants state, was nothing other than a "matter of timing." Tr. p. 72.

As another instance of inconsistency in Company practice, HP/Kimball points out that none of the four HP buildings are now or have ever been served under industrial Schedule 19. To qualify for Schedule 19 rates the load must be greater than 1 MW. The buildings are all served instead under Large General Service Schedule 9. Each of the three individual delivery points or meters for HP are billed separately. If the loads were amalgamated, HP contends that it would be served under lower Schedule 19 rates. Idaho Power, HP contends, amalgamates loads for the purpose of charging for substation construction but does not amalgamate the very same loads for other billing purposes. Tr. pp. 74, 75.

HP/Kimball requests a refund of the CIAC, in the full amount with interest or in a lesser amount pursuant to alternative calculation methods. Tr. pp. 73-77. Because HP is served under Schedule 9, Commission Staff recommends a refund in an amount proportionate to the share of substation capacity that HP is actually using. For the share of substation capacity that HP/Kimball requested and paid for but never utilized, Staff recommends that HP/Kimball not be permitted a refund. Tr. pp. 134, 135.

Answer

Idaho Power states that but for HP/Kimball's request it would not have constructed the Bethel Court Substation. Addressing HP/Kimball's contention that Idaho Power has "no written policy" on how to or when to assess industrial customers a fee for construction of transmission or substation facilities, (Tr. pp. 86, 87) the Company states that its policy concerning CIAC is applied on a consistent basis every time a new customer requests service. In each such instance, the Company (1) determines appropriate service schedules based on customer request, (2) determines the appropriate facilities required to serve the request, (3) complies with Rule H provisions for determining CIAC, and (4) when facilities other than Rule H are required, the Company enters into a special agreement to address required CIAC. Tr. pp. 264, 265. Rather than being a capricious and discriminatory policy administered on an ad hoc basis, Idaho Power maintains that the CIAC policy is very predictable. Tr. p. 268. Idaho Power believes that when electrical requirements do not dictate the construction of additional facilities, it is inappropriate to require a CIAC. New customers should be encouraged, it states, to locate in areas with available capacity. This results in more fully utilizing the system. Tr. p. 268. Rule H, the Company states, embodies a standard policy by which the Company seeks contributions in aid of construction. The same procedure is followed under Schedule 19 for collecting contributions for substations. Tr. p. 273. Similar procedures are also followed for PURPA QFs under Schedule 72 in determining the adequacy of existing facilities to accept additional generation. Tr. p. 274.

Regarding the Company's CIAC policy for Schedule 19 customers, the Company states that if it receives multiple requests for service within a similar time-frame, whether by the same customer or multiple customers, the Company views all of those requests as contributing equally to the need to upgrade the facility and each of those customers would be expected to pay for the increased capacity on the same prorata basis. It is an issue of fairness, the Company states. Tr. pp. 199, 223, 224.

Idaho Power disputes HP/Kimball's contention that the Company amalgamated loads for purposes of charging for the substation construction. First, Idaho Power notes that HP/Kimball's request was a single request for 4 MW. Second, the buildings and timing

communicated by HP outside of the formal signed service request indicated that each of the buildings would be over 1 MW. Tr. p. 198.

Addressing HP/Kimball's contention that a clear set of rules and guidelines akin to Rule H for CIAC for Schedule 19 customers is needed to alleviate future disputes, Idaho Power contends that no change is needed to the Company's Schedule 19 CIAC policy. Tr. p. 316.

Idaho Power points out that the outcome of HP/Kimball and Staff refund proposals is that other customers absorb additional costs because Hewlett-Packard and Kimball Properties failed to properly assess their load requirements. Tr. p. 276. No other Schedule 19 requests requiring contributions in aid of construction for substation facilities, the Company contends, have ever been subject to refund. Tr. p. 276. A new customer who requires no additional facilities provides a benefit to other customers. A new customer who requires additional facilities, but is not required to make a contribution in aid of construction, adds costs to be recovered by the Company from other customers who don't require the additional facilities. Tr. p. 277.

Idaho Power argues that a refund should not be granted based upon an after-the-fact determination that things did not turn out as HP/Kimball had planned. HP/Kimball, the Company states, should not be singled out for special treatment. Tr. p. 278.

Commission Findings

The Commission supports the payment of contributions in aid of construction, as such payments directly offset Company investment and additions to rate base. If no contribution had been required from HP/Kimball, Idaho Power would have borne the full risk that enough other customers would eventually materialize to utilize the available capacity. Additionally, requiring a contribution from new Schedule 19 customers provides an incentive for those customers to accurately estimate their loads when requesting service. The risk of speculative development should be on the customer requesting service, not on Idaho Power and its other customers.

HP/Kimball contends that the contribution required for the Bethel Court Substation was nothing other than a "matter of timing." We agree, and we find that any customer requesting 4 MW of new load at that time and at that location would have been treated by the Company under the same rules and in the same manner. We find no evidence of discrimination or preference.

At the time the request for new service was made, HP/Kimball informed Idaho Power that its load at the location would be approximately 4 MW. The Company's electric tariff Schedule 19 is applicable for customers with a firm electric demand of 1 to 25 MW. Tr. p. 102. Idaho Power proceeded to design and construct the necessary facilities to serve a 4 MW load, and assessed charges for the Bethel Court Substation as if HP/Kimball was a Schedule 19 customer. Tr. p. 132. The Company is not responsible for the fact that the 4 MW of load never materialized.

Rule H, the Company's general Line Extension tariff, provides "this Rule does not apply to transmission or substation facilities, or to requests for electric service that are of a speculative nature." Exhibit 103. Rule H does not apply in this case because the complaint concerns costs associated with the Bethel Court Substation facilities. Idaho Power Schedule 19 states "To the extent that additional facilities not provided for under Rule H, including transmission and/or substation facilities, are required to provide the requested service, special arrangements will be made in a separate agreement between the customer and the Company." Exhibit 104. Schedule 19 customers pay for their share of substation costs through up-front charges when capacity is not available. Schedule 9 customers pay nothing up-front and instead pay for substations over time through rates, as do other customer classes. We find that Idaho Power has not violated any tariffs or rules by seeking a substation contribution from HP/Kimball. In determining that additional substation facilities were needed to provide service, Idaho Power assessed the capabilities of the electric system, engaged in system planning and exercised its judgment. Although HP/Kimball presents much testimony on the configuration of the Company's electric system in the area surrounding the Kimball Business Park, the Commission finds no reason or justification to second guess the Company's system planning decisions.

The Commission finds that no refund is warranted and that no compromise refund is warranted. There is clear and convincing evidence that Idaho Power followed its line extension policy. We also find that the policy is fair, just and reasonable and that it fairly allocates the costs of new facilities. We find that the CIAC was correctly assessed to HP/Kimball.

CONCLUSIONS OF LAW

The Commission has jurisdiction over Idaho Power Company, an electric utility, and the issues presented in Case No. IPC-E-00-12 pursuant to the authority granted under Title 61, Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

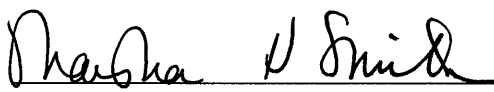
ORDER

In consideration of the foregoing and as more particularly described above IT IS HEREBY ORDERED and the Commission does hereby find that HP/Kimball is not entitled to a refund of the \$490,824 contribution in aid of construction (CIAC) paid to Idaho Power Company for the Bethel Court Substation.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

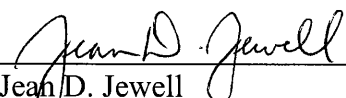
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 16th day of July 2004.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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